

REPORT OF THE COMMISSION ON JUDICIAL RESOURCES
TO THE SUPREME COURT AND GENERAL ASSEMBLY

DECEMBER 1992

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This is the second annual report of the Commission on Judicial Resources, prepared pursuant to 476.415, RSMo. Below are the Commission's recommendations for addressing the needs of the judiciary. These are followed by a review of the recommendations which the Commission made last year, a discussion of the most pressing needs of the judiciary, and highlights of emerging problems.

I. COMMISSION'S RECOMMENDATIONS FOR ADDRESSING THE NEEDS OF THE JUDICIARY

The Commission recommends the following:

A. *AUTOMATION*

The Commission recommends expanded automation for the judiciary. Preliminary estimates place the cost at approximately \$47 million over a seven-year period. A fee of \$7 on civil, criminal, and traffic cases and on municipal and county ordinance cases heard by an associate circuit judge has been proposed to fund the automation project.

B. *CLERICAL SUPPORT STAFF*

The Commission recommends that additional clerical support staff be appropriated for the Circuit Court. Judges have indicated that clerical staffing is one of the most pressing needs of the judiciary, a need which grows annually as caseloads and legislative requirements expand. Of particular significance are the growth in criminal case filings and increased child support collections.

C. *FULL FUNDING FOR SENIOR JUDGES AND TRANSFER OF REGULAR JUDGES*

The Commission recommends full funding for compensation of senior judges as requested in the Judiciary's FY 1994 budget. It is estimated that an additional \$170,000 will be needed to provide full funding for senior judges in the next fiscal year.

The state experiences considerable cost savings by using senior judges. The time contributed by these judges in the last fiscal year cost less than 1/10th of the expense that would attach annually to the creation of an equivalent number of new judgeships.

The Commission also recommends that adequate funding be provided for the temporary transfer of judges.

II. REVIEW OF LAST YEAR'S RECOMMENDATIONS

A. Expanded automation.

Bills establishing a statewide court automation fund were introduced in both the House and the Senate. However, none of the versions was passed.

B. Encouragement for counties to expand or improve facilities.

Since the last Report, St. Charles County has completed much of the work on a new courthouse; Boone County has completed renovation and expansion of its facilities; Phelps County has begun construction of a new court building; Madison County has nearly completed a \$600,000 court renovation project; and a security system has been added in St. Louis County.

C. Increased utilization of senior judges and expansion of the program for aggressively transferring judges into areas where an increase in judicial manpower could result in more timely disposition of cases and better service to litigants.

In FY 1992, 32 senior judges accepted assignments to 58 specific cases. In addition they accepted assignments for periods of time totalling 2,139 days. This is an equivalent contribution of more than 9½ judge years. Pursuant to 476.682, RSMo, these judges are supposed to receive the difference between their retirement benefits and the salaries of their respective offices for each day worked on assignment. However, the FY 1992 appropriation for senior judges was sufficient to pay them only 69.1 percent of the amount due. Though the FY 1993 appropriation is higher, only 45.5 percent of the amount due could be paid to senior judges for their services in the first quarter of FY 1993. The Judiciary has requested increased funding in its FY 1994 budget to allow full compensation and expanded utilization of senior judges. Full funding should help insure that an adequate number of senior judges will be willing to serve in the future.

The Supreme Court, through its Critical Issues Committee, launched the Mega-circuit pilot project in September 1991, aimed at better utilizing present judicial resources. As part of this project, judges from northeastern Missouri counties are being transferred into St. Louis County on a regular basis. Preliminary data regarding the project indicate that from September 1991 through August 1992, the transferred judges disposed nearly 27,000 cases in St. Louis County while continuing to keep pace with the workload in their home counties and circuits. This has been achieved through the adoption of more efficient procedures and cooperation among the judges.

Expansion of the judicial transfer program has been addressed on at least four fronts:

- effective January 1993, 10 additional judges from northeast and central Missouri counties will be transferred into St. Louis County as part of the Mega-circuit project.
- funds were appropriated for the current fiscal year to permit the transfer of Missouri judges into other metropolitan areas.
- in October the Chief Justice encouraged all judges not included in the Mega-circuit project to participate in the transfer program, requesting that each identify three weeks in the 1993 calendar year during which he or she would be available for assignment.
- regular judges were transferred outside their home circuits a total of 1,015 times during the 1992 fiscal year. These judges were transferred to hear 895 specific cases, which is in addition to transfers for periods of time totalling 921 days.

D. Removal of county ordinance violation cases from the St. Louis County associate circuit court.

Legislation permitting St. Louis County to create county municipal and traffic courts was passed and signed into law. County traffic courts are expected to open in early 1993, which will reduce the congestion and parking problems around the St. Louis County Circuit Court. Transfer of the traffic cases will also permit judges and clerical staff to move civil and criminal cases on a more timely basis.

III. MOST PRESSING NEEDS OF THE JUDICIARY

Last year's report described the most pressing needs of the judiciary, providing specifics about why additional resources are needed. The needs described last year continue to exist and are discussed briefly in this section.

A. PHYSICAL FACILITIES

While the physical facilities are the responsibility of counties and the City of St. Louis, state incentives are needed to encourage development. A number of counties lack the tax base needed to adequately maintain or expand court structures or to provide necessary equipment and supplies.

As discussed in the last report, the judiciary has pressing needs for additional courtrooms, expanded storage areas and work areas for support staff, and handicapped access. Since the last report, provisions of the Americans with Disabilities Act have gone into effect, mandating services, programs and activities be readily accessible. The Act provides penalties to state and local governments for noncompliance.

In addition, the need for security equipment has risen to the forefront. As was experienced in St. Louis County last year, court proceedings often involve high degrees of emotion which may erupt into violence. Presiding judges reported that approximately half the facilities were in great need of metal detectors or other security equipment.

Legislation requiring the designation of smoke-free areas in public buildings is beginning to manifest itself as a problem for a number of courthouses.

Additional courtrooms are needed because:

- caseloads are increasing;
- often courts need the use of senior or transferred judges, but cannot accommodate them because no courtrooms are available;
- trials are being delayed due to the lack of courtrooms;
- some associate judges have no courtroom regularly available to hear the cases which have come under their expanded jurisdiction.

Storage areas are needed -- case files often must be stored in such places as attics and basements where they are not readily accessible and are susceptible to damage from water or lack of climate control.

Work areas for support staff are needed -- the lack of space often reduces the ability of the staff to provide assistance to the public and to perform their required tasks.

Handicapped access is needed -- constituents with disabilities are denied access to some courthouses because such features as elevators, railings and enlarged rest room facilities have not been provided. The requirements of the Americans with Disabilities Act are going largely unmet in many courthouses in the state.

B. AUTOMATION

Presiding judges reported that over half of the judicial functions of the courts were not automated at all--manual systems were being used exclusively. The greatest use of automated systems was in the circuit clerk offices. However, only 6 percent of these offices were considered to have extensive use of automated systems. The judges reported that over half of the circuit clerk offices and more than 1 in 3 of all court offices have a significant need for additional computer equipment.

Benefits that may be realized from increased automation include:

- enhanced accountability of funds and cashflow;
- more efficient use of space, reducing storage needs;
- speedier processing of criminal cases and better information for record checks;
- better use of judges' time through management of the dockets;
- maximized use of courtrooms through coordinated scheduling;
- better service to constituents, e.g., 24-hour telephone access to case information, quicker retrieval of information;
- generation of now unavailable information which is required by statute.

It is estimated that statewide automation of the judiciary will cost approximately \$47 million over a seven-year period. The estimate does not take into consideration probable reductions for use of the statewide child support telecommunications network (to be implemented by September 1995), for use of existing computer equipment in the courts, and anticipated continued decline in equipment costs.

Much of the funding is proposed to come from a \$7 fee attached to civil, criminal, and traffic cases, and municipal and county ordinance cases heard by an associate circuit judge.

C. CLERICAL SUPPORT STAFF

More than half the judges indicated their circuits had a substantial need for additional clerks. They estimated that a total of at least 100 additional clerks were needed in the circuits statewide.

Additional clerical personnel are needed to address problems with

- delays in case processing;
- costs and fees going uncollected, impacting both local and state revenues;
- delays in filing judgments and cancelling warrants; and
- errors and delays in serving constituents.

D. ADDITIONAL JUDGES

The most frequently cited reason for needing additional judges was increased caseload. Of particular significance have been the increases in criminal and domestic relations cases. In the past five years, criminal case filings have risen 28 percent, with close to 35,000 more cases filed in FY 1992 than in FY 1987. Approximately 82,000 domestic relations cases were filed last fiscal year, a 40 percent increase compared to five years ago.

In this year's survey, nine presiding judges indicated that an additional judge would be needed within the next three years. Last year's transfer of Perry County from the 24th to the 32nd Circuit, establishment of a 45th Circuit, and the addition of a judgeship in five counties based on population growth have provided relief in a number of areas.

The Commission believes that much of the need for additional judges can be met through judicial transfers and the use of senior judges.

Missouri's Constitution provides for the temporary transfer of judicial personnel "from one court or district to another as the administration of justice requires". In FY 1992 judges were transferred outside their home circuits a total of 1,015 times. The number does not include the transfer of judges into St. Louis County as part of the Mega-circuit project. Three hundred fifty-five of the 1,015 transfers were for periods of time, while the remainder (660) were for specific cases. Adequate funding is necessary to reimburse judges for their necessary travel expenses.

Optimum use of available resources requires that judges from areas with relatively low workload be transferred to areas where the workload per judge is high. Because not all cases handled by judges require the same amount of time, an objective means for evaluating judicial workload is needed.

Misdemeanor guilty pleas and change of name cases, for example, take less time than felony trials and contested dissolutions. For comparison purposes, both numbers and types of cases must be considered. Preliminary attempts at weighting cases have been undertaken. While the methods used are admittedly simplistic, those circuits believed to need additional judges are at the top of the list in terms of workload per judge.

Senior judges, experienced jurists capable of handling both complex and lengthy cases and of filling in for extended periods when vacancies occur, are supposed to be paid the difference between their retirement benefits and the salaries of their respective offices for each day worked on assignment. Due to inadequate funding, however, senior judges were paid only 69.1 percent of the amount due for FY 1992 and only 45.5 percent of the amount due for the first quarter of FY 1993. The time contributed by these judges in the last fiscal year cost less than 1/10th of the expense that would attach annually to the creation of an equivalent number of new judgeships.

IV. EMERGING PROBLEMS

A. JURY SYSTEM

Difficult economic times, low juror fees, out of date public records which are used to compile juror lists, apathetic citizens, employers who do not compensate workers who are away from the job on jury duty, and even the high cost of day care challenge the state's ability to meet its constitutional obligation to provide for a jury system.

Each year, local courts invest significant amounts of severely limited personnel time and county funds to overcome these obstacles. The usual solution is to summons a larger number of citizens, recognizing that a substantial percentage will not respond, or for good cause such as financial hardship, will be excused from service. For example, over a 12-month period, the City of St. Louis issued more than 75,000 summonses; fewer than 20,000 citizens (26 percent) reported for service. In Jackson County 35 percent of those summoned appeared.

If the jury system is to remain viable, attention must be given to such issues as jury size, age of jurors, juror fees, compensation for employees who have been called for jury duty, subsidized day care, the reliability of information used by the courts in compiling juror lists, and education of youths and adults regarding the importance of jury service.

B. LEGISLATION

New legislation frequently adds to the workload of the courts. An example is SB 638, which was passed during the last legislative session. This bill includes a provision which allows victims of crime to file a petition in criminal court for damages caused by the defendant. In instances where the defendant does not consent to the petition, a jury is to be impaneled to ascertain the damages. Significant increases both in the number of petitions and in the number of jury trials may result. The bill also provides that the civil petition be filed in the criminal case, a provision which will result in administrative difficulties for the courts.

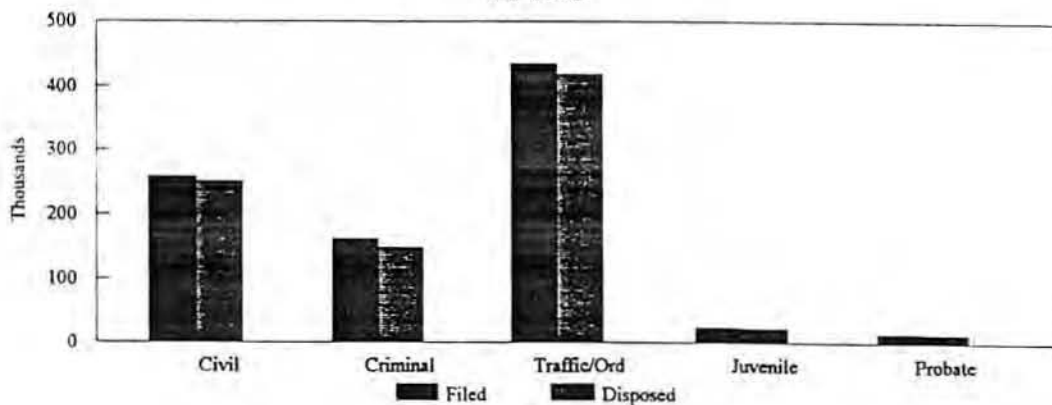
Adequate time to assess the potential impact of proposed legislation, as well as the additional resources necessary to handle the expanded duties resulting from new laws, are greatly needed.

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**STATEWIDE CASELOAD, TRANSFER AND ASSIGNMENT STATISTICS
FY 1992**

Note: Data has not been fully validated and may be adjusted prior to publication in the Missouri Judicial Report.

**Graph 1
Missouri Circuit Court
Cases Filed and Disposed
FY 1992**



**Table 1
Missouri Circuit Court
Cases Filed and Disposed by Case Type
FY 1992**

<u>Case Type</u>	<u>Filed</u>	<u>Disposed</u>	<u>Disposition to * Filing Ratio</u>
Civil	258,096	251,257	0.97
Criminal	162,527	149,586	0.92
Traffic/Ord	435,730	418,186	0.96
Juvenile	22,632	21,858	0.97
<u>Probate</u>	<u>14,100</u>	<u>12,875</u>	<u>0.91</u>
Total	893,085	853,762	0.96

This ratio, calculated by dividing the number of cases disposed by the number filed, gives an indication of how well the courts are keeping up with their workload. A ratio of 1.00 or greater indicates that the courts disposed at least as many cases as were filed. A ratio of less than 1.00 indicates that the courts disposed fewer cases than were filed and experienced an increase in pending caseload.

Table 2
Missouri Circuit Court
Cases Disposed by Manner of Disposition
FY 1992

<u>Case Type</u>	<u>-With Trial-</u>		<u>-----Without Trial-----</u>				<u>Total</u>
	<u>Jury</u>	<u>Court</u>	<u>Uncontested</u>	<u>Plea</u>	<u>Dismissed</u>	<u>Other</u>	
Civil	1,028	40,212	110,272	-----	94,728	5,017	251,257
Criminal	1,094	2,576	-----	85,327	35,005	25,584	149,586
Traffic/Ord	13	7,741	-----	369,804	39,934	694	418,816
<u>Total</u>	<u>2,135</u>	<u>50,529</u>	<u>110,272</u>	<u>455,131</u>	<u>169,667</u>	<u>31,295</u>	<u>819,659</u>

Note: Other includes such manners of disposition as change of venue, certification, and bind over of felony preliminary cases.

Table 3
Missouri Circuit Court
Judge Transfers/Assignments
FY 1992

	<u>No. of Judge Transfers/ Assignments</u>	<u>No. of Days</u>	<u>No. of Cases</u>
Transfers of Regular Judges Outside Home Circuit	1,015	921	895
Senior Judge Assignments	214	2,139	58

Much of the information in this report was obtained from responses to a survey which was distributed to presiding judges. The responses of individual judges may not be reflected in the summary information contained in this report.

In addition, the statistics in the appendix are for the state as a whole and may not mirror the caseload, judicial transfers or senior judge assignments within a particular circuit.

If you would like more detailed information regarding the needs and opinions expressed for individual circuits or would like statistical information regarding specific circuits within the state, please contact:

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